

IN THE MATTER OF THE * BEFORE THE
 THE APPLICATION OF * COUNTY BOARD OF APPEALS
 JOHN T. MASSEY, ET UX
 FOR A SPECIAL HEARING AND * OF
 VARIANCES ON PROPERTY LOCATED * BALTIMORE COUNTY
 ON THE SOUTHWEST SIDE * CASE NO. 91-301-SPHA
 COWENTON AVE., 190' NORTH OF *
 LOLLY RD (8934 COWENTON AVE.) *
 11TH ELECTION DISTRICT *
 5TH COUNCILMANIC DISTRICT *

OPINION

The Petitioners, John T. Massey and Katherine Anita Massey, appeared before the Deputy Zoning Commissioner for Baltimore County requesting a special hearing to approve parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at their property located at 8934 Cowenton Avenue. All the requests made by the Petitioners were denied by the Deputy Zoning Commissioner under her Order dated May 8, 1991.

The matter was appealed to this Board and a hearing was held on February 5, 1992. The Petitioners appeared represented by Counsel, Patricia E. McDonald. Evidence and testimony was taken. No opposition was presented at the hearing to Petitioners' request.

The next-door neighbor, Alphonso Patacca, gave testimony describing the neighborhood as a combination of residential, agricultural and commercial. He testified as to the continued use of the truck and tractor, and that in his opinion it was not detrimental to the neighborhood, nor did it pose any impact on public safety.

Mr. Massey testified that his operation at the subject site is a truck farm which is approximately 25 acres in size and that the

Case No. 91-301-SPHA John T. Massey, et ux 2
 farm is located on both sides of Interstate 95.
 This Board considered the evidence and testimony presented at the hearing and at that time gave an oral decision and made findings of fact and conclusions of law granting the request for nonconforming use and the variances requested. For the reasons given by the Board at its hearing on the above date, the Petitioners' requests are granted.

ORDER

IT IS THEREFORE this 30th day of July, 1992 by the County Board of Appeals of Baltimore County

ORDERED that the parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at the subject location as a nonconforming use be and is hereby GRANTED; and it is further

ORDERED that the variances to permit two commercial/agricultural vehicles, one of which weighs approximately 13,000 lbs., in lieu of the maximum permitted one vehicle weighing 10,000 lbs. to be stored at the subject site and to permit the parking of the subject tractor on the subject property be and are hereby GRANTED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
 OF BALTIMORE COUNTY

Michael B. Eusey, Acting Chairman

Harry E. Buchheister, Jr.

Judson R. Livovitz



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
 400 WASHINGTON AVENUE
 TOWSON, MARYLAND 21204
 (410) 887-3180

July 30, 1992

Patricia E. McDonald, Esquire
 12 Timothy's Green Court
 Baltimore, MD 21208

RE: Case No. 91-301-SPHA
 John T. Massey, et ux

Dear Ms. McDonald:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
 Administrative Assistant

encl.

cc: Mr. & Mrs. John T. Massey
 Mr. & Mrs. William Rock
 John B. Gontrum, Esquire
 Mary Helen Buchanan, Esquire
 Mr. John S. Walker
 P. David Fields
 Lawrence E. Schmidt
 Timothy M. Kotzko
 W. Carl Richards, Jr.
 Docket Clerk - Zoning
 Arnold Jablon, Director of
 Zoning Administration

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
 AND ZONING VARIANCE - SM/S * DEPUTY ZONING COMMISSIONER
 Cowenton Avenue, 190' N of * OF BALTIMORE COUNTY
 Lolly Road *
 (8934 Cowenton Avenue) * CASE NO. 91-301-SPHA
 11th Election District *
 5th Councilmanic District *
 John T. Massey, et ux
 Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at the subject location as a nonconforming use, and variances to permit two commercial/agricultural vehicles, weighing approximately 13,000 pounds, to be stored on the subject property, in lieu of the maximum permitted one vehicle weighing 10,000 pounds, and to permit the parking of the subject tractor on the property described herein if the tractor is considered a piece of equipment instead of a vehicle, all as more particularly described on Petitioner's Exhibit 1.

The Petitioners appeared, testified and were represented by Patricia E. McDonald, Esquire. Appearing as Protestants in the matter were William and Eva Rock, adjoining property owners, who were represented by John B. Gontrum, Esquire and Mary Helen Buchanan, Esquire.

Testimony indicated that the subject property, known as 8934 Cowenton Avenue, consists of 1.033 acres zoned D.R. 5.5 and is improved with a single family dwelling. Petitioners filed the instant Petitions for relief as a result of a complaint filed with the Zoning Enforcement Division of this Office. Testimony indicated that the Petitioner parks one tractor and one dump truck on the subject property in the areas depict-

ORDER RECEIVED FOR FILING
 Date 8/1/92
 By [Signature]

ed on Petitioner's Exhibit 1. Mr. Massey testified that the vehicles are used for hauling materials used in his mulching business which is located not far from the subject site on property he leases. He indicated he hauls mulch purchased from numerous locations, including, but not limited to, saw mills, and that the mulch is stored on the leased property. Counsel for Petitioners argued that the subject use is part of a farming operation and the definition of a farm as found in the Baltimore County Zoning Regulations (B.C.Z.R.) excludes commercial vehicles. Petitioners further argued that the parking of the two vehicles in question on the subject property has occurred in excess of ten years. Petitioners conceded that prior to the filing of the complaint and notification of a potential violation of the zoning regulations, additional vehicles used by his son, who is in the mulching business with Petitioner, were also parked on the property. Petitioner testified that since notification of the alleged violation, no additional vehicles other than the two in question have been parked on the site and that all work on the vehicles on the property has ceased. On cross examination, Petitioner conceded that his mulching business is operated from the subject dwelling.

The Protestants questioned the Petitioner's classification of his mulching operation as a farming business. The Protestants argued that no product is grown or harvested and that in this particular instance, the mulch is purchased from one site and stored on leased property. Further, the Protestants argue that the subject property is classified and used for residential purposes and not in any way farmed.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and

his property. Miles v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variance were denied. The testimony presented by Petitioners was in support of a matter of preference rather than of the necessity for the variance. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

Counsel for Petitioners indicated that the Petition for Special Hearing was filed as an alternative in the event that the requested variances were not granted. As in all nonconforming use cases, the burden is upon the Petitioners to prove that a nonconforming use exists. The testimony and evidence presented herein failed to show that the use when commenced was permitted. To permit the relief requested would not be consistent with the spirit and intent of the B.C.Z.R. and as such must be denied.

ORDER RECEIVED FOR FILING
 Date 8/1/92
 By [Signature]

Based upon the testimony and evidence presented, it appears the relief requested in the special hearing should not be granted. Petitioners have not met their burden of proof. In the opinion of the Deputy Zoning Commissioner, the relief requested must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing and variances should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of July, 1992 that the Petition for Special Hearing to approve the parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at the subject location as a nonconforming use be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit two commercial/agricultural vehicles, weighing approximately 13,000 pounds in lieu of the maximum permitted one vehicle weighing 10,000 pounds to be stored at the subject site, and to permit the parking of the subject tractor on the subject property if the tractor is considered a piece of equipment instead of a vehicle, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

ANN:bjb

ANN M. NASTAROWICZ
 Deputy Zoning Commissioner
 for Baltimore County

ORDER RECEIVED FOR FILING
 Date 8/1/92
 By [Signature]

PETITION FOR SPECIAL HEARING
 TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-301-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the advertisement and posted before and made a part hereof, hereby petition for a special hearing under Section 10-17 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

The parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at 8934 Cowenton Ave. as a non-conforming use.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

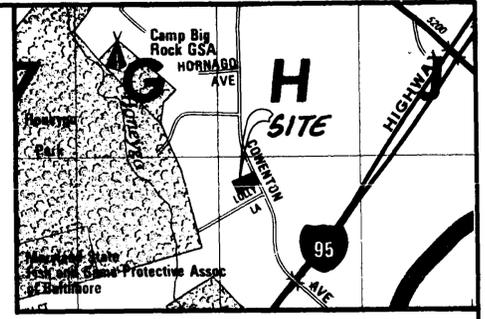
Contract Purchaser: _____
 (Type or Print Name)
 Signature: John Thomas Massey
 Address: _____
 City and State: _____
 Legal Owner(s): John Thomas Massey
 (Type or Print Name)
 Signature: Katherine Anita Massey
 Address: 8934 Cowenton Ave. 256-6048
 City and State: Parkville, MD 21128
 Attorney for Petitioner: _____
 Patricia E. McDonald
 (Type or Print Name)
 Signature: Patricia E. McDonald
 Address: 12 Timothy's Green Ct.
 City and State: Baltimore, MD 21208
 Attorney's Telephone No.: (301) 653-3060
 Name: Patricia E. McDonald, Esq.
 Address: see above
 Phone No.:

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day of August, 1992, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 104, County Office Building in Towson, Baltimore County, on the 9th day of April, 1991, at 9:30 a.m.

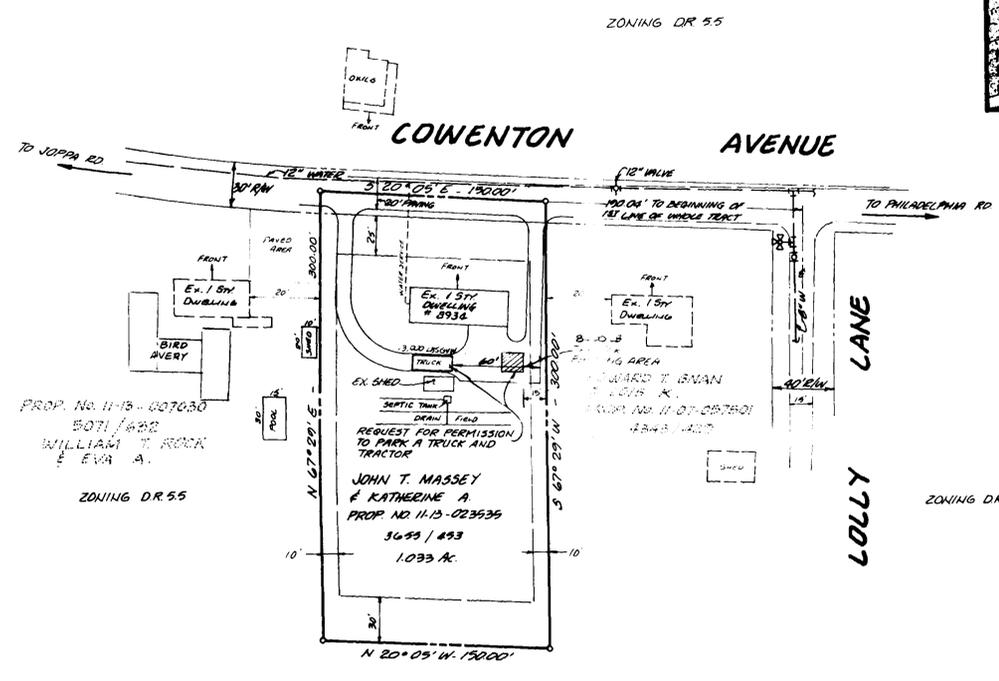
FILED 1/4/91 BY JLL
 ANY TIME OR DAY
 1 HR. MIN.

J. Robert Hines
 Zoning Commissioner of Baltimore County

SEE-281 (over)



VICINITY MAP
SCALE: 1"=1,000'

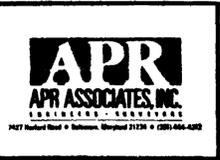


91-301-SPHA 213

- NOTES:
- 1) EXISTING ZONING DR 55
 - 2) ZONING MAP NO NE 91
 - 3) PROPERTY NOT IN CRITICAL AREA
 - 4) OWNERS: JOHN T & KATHERINE A MASSEY
 - 5) AREA OF PROPERTY: 1.033 ACRES

PETITIONER'S EXHIBIT

John T. Massey
11-5-90



PLAN TO ACCOMPANY PETITION FOR ZONING VARIANCE HEARING
8934 COWENTON AVENUE
COUNTY COUNCIL DISTRICT 5
11TH ELECTION DISTRICT
BALTIMORE COUNTY MARYLAND
SCALE: 1"=50' NOVEMBER 26, 1990

IN THE MATTER OF THE APPLICATION OF JOHN T. MASSEY, ET UX FOR A SPECIAL HEARING AND VARIANCES IN PROPERTY LOCATED ON THE SOUTHWEST SIDE COWENTON AVE. 190' NORTH OF LOLLY RD (8934 COWENTON AVE.) 11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

OPINION

The Petitioners, John T. Massey and Katherine Anita Massey, appeared before the Deputy Zoning Commissioner for Baltimore County requesting a special hearing to approve parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at their property located at 8934 Cowenton Avenue. All the requests made by the Petitioners were denied by the Deputy Zoning Commissioner under her Order dated May 8, 1991.

The matter was appealed to this Board and a hearing was held on February 5, 1992. The Petitioners appeared represented by Counsel, Patricia E. McDonald. Evidence and testimony was taken. No opposition was presented at the hearing to Petitioners' request.

The next-door neighbor, Alphonso Patacca, gave testimony describing the neighborhood as a combination of residential, agricultural and commercial. He testified as to the continued use of the truck and tractor, and that in his opinion it was not detrimental to the neighborhood, nor did it pose any impact on public safety.

Mr. Massey testified that his operation at the subject site is a truck farm which is approximately 25 acres in size and that the

Case No. 91-301-SPHA John T. Massey, et ux 2
farm is located on both sides of Interstate 95.
This Board considered the evidence and testimony presented at the hearing and at that time gave an oral decision and made findings of fact and conclusions of law granting the request for nonconforming use and the variances requested. For the reasons given by the Board at its hearing on the above date, the Petitioners' requests are granted.

ORDER

IT IS THEREFORE this 30th day of July, 1992 by the County Board of Appeals of Baltimore County

ORDERED that the parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at the subject location as a nonconforming use be and is hereby GRANTED; and it is further

ORDERED that the variances to permit two commercial/agricultural vehicles, one of which weighs approximately 13,000 lbs., in lieu of the maximum permitted one vehicle weighing 10,000 lbs. to be stored at the subject site and to permit the parking of the subject tractor on the subject property be and are hereby GRANTED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Michael B. Massey, Acting Chairman
Harry E. Buchheister, Jr.
Judson H. Lipowitz

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - SM/S Cowenton Avenue, 190' N of Lolly Road (8934 Cowenton Avenue) 11th Election District 5th Councilmanic District
John T. Massey, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at the subject location as a nonconforming use, and variances to permit two commercial/agricultural vehicles, weighing approximately 13,000 pounds, to be stored on the subject property, in lieu of the maximum permitted one vehicle weighing 10,000 pounds, and to permit the parking of the subject tractor on the property described herein if the tractor is considered a piece of equipment instead of a vehicle, all as more particularly described on Petitioner's Exhibit 1.

The Petitioners appeared, testified and were represented by Patricia E. McDonald, Esquire. Appearing as Protestants in the matter were William and Eva Rock, adjoining property owners, who were represented by John B. Gontrum, Esquire and Mary Helen Buchanan, Esquire.

Testimony indicated that the subject property, known as 8934 Cowenton Avenue, consists of 1.033 acres zoned D.R. 5.5 and is improved with a single family dwelling. Petitioners filed the instant Petitions for relief as a result of a complaint filed with the Zoning Enforcement Division of this Office. Testimony indicated that the Petitioner parks one tractor and one dump truck on the subject property in the areas depicted

ORDER RECEIVED FOR FILING
Date 5/8/91
By [Signature]

ORDER RECEIVED FOR FILING
Date 5/8/91
By [Signature]

ed on Petitioner's Exhibit 1. Mr. Massey testified that the vehicles are used for hauling materials used in his mulching business which is located not far from the subject site on property he leases. He indicated he hauls mulch purchased from numerous locations, including, but not limited to, saw mills, and that the mulch is stored on the leased property. Counsel for Petitioners argued that the subject use is part of a farming operation and the definition of a farm as found in the Baltimore County Zoning Regulations (B.C.Z.R.) excludes commercial vehicles. Petitioners further argued that the parking of the two vehicles in question on the subject property has occurred in excess of ten years. Petitioners conceded that prior to the filing of the complaint and notification of a potential violation of the zoning regulations, additional vehicles used by his son, who is in the mulching business with Petitioner, were also parked on the property. Petitioner testified that since notification of the alleged violation, no additional vehicles other than the two in question have been parked on the site and that all work on the vehicles on the property has ceased. On cross examination, Petitioner conceded that his mulching business is operated from the subject dwelling.

The Protestants questioned the Petitioner's classification of his mulching operation as a farming business. The Protestants argued that no product is grown or harvested and that in this particular instance, the mulch is purchased from one site and stored on leased property. Further, the Protestants argue that the subject property is classified and used for residential purposes and not in any way farmed.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and

his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variance were denied. The testimony presented by Petitioners was in support of a matter of preference rather than of the necessity for the variance. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

Counsel for Petitioners indicated that the Petition for Special Hearing was filed as an alternative in the event that the requested variances were not granted. As in all nonconforming use cases, the burden is upon the Petitioners to prove that a nonconforming use exists. The testimony and evidence presented herein failed to show that the use when commenced was permitted. To permit the relief requested would not be consistent with the spirit and intent of the B.C.Z.R. and as such must be denied.

ORDER RECEIVED FOR FILING
Date 5/8/91
By [Signature]

ORDER RECEIVED FOR FILING
Date 5/8/91
By [Signature]

Based upon the testimony and evidence presented, it appears the relief requested in the special hearing should not be granted. Petitioners have not met their burden of proof. In the opinion of the Deputy Zoning Commissioner, the relief requested must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing and variances should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 8th day of May, 1991 that the Petition for Special Hearing to approve the parking of a truck used for residential and commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at the subject location as a nonconforming use be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit two commercial/agricultural vehicles, weighing approximately 13,000 pounds in lieu of the maximum permitted one vehicle weighing 10,000 pounds to be stored at the subject site, and to permit the parking of the subject tractor on the subject property if the tractor is considered a piece of equipment instead of a vehicle, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

A.M.N.
A.M.N. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

In Re: VARIANCE AND SPECIAL HEARING PETITION FILED BY MASSEY H 91-301-SPHA

MEMORANDUM

Petitioners J. Thomas Massey and Katherine Anita Massey file this Memorandum in support of their petitions for variance and special hearing.

Facts

Mr. & Mrs. Massey have lived at 8934 Cowenton Avenue for many years. Since 1980 they have parked a tractor and truck at their residence at night. The tractor and truck are used for horticultural and agricultural purposes on a farm approximately 150 yards away from the residence. The Masseys have been using the farm since the mid-1970's. The tractor is also used for residential purposes on the subject property.

The farm was divided in the early 1960's when Interstate 95 was constructed. The farm residence and related buildings are on Cowenton Avenue on the east side of Interstate 95. The portion of the farm used by the Masseys for agricultural and horticultural purposes is located on the west side of Interstate 95. Kitty-corner from their residence. The property is contiguous to Interstate 95 and is separated from the highway's embankment and shoulder by a flimsy chicken wire fence. The equipment cannot be left on the property at night for fear of vandalism.

The neighborhood is low density, agricultural and residential. There is a significant amount of commercial/agricultural activity. The property across the street is an old farm house with some agricultural activity. Recently, the residents were displaying and selling old farm equipment. The next door neighbor maintains a large aviary and frequently receives shipments of feed and supplies in large trucks and tractor-trailers. Nearby is a Christmas tree farm which uses substantial amounts of equipment to harvest and sell the trees. It attracts large volumes of traffic on a seasonal basis. Both portions of the farm which was divided by Interstate 95 continue to be used for horticultural activity. A large nursery operation

is located within one mile near the intersection of Cowenton & Joppa.

The use of the tractor and truck is consistent with the character of the neighborhood. Although used for agricultural purposes, the Masseys are careful to integrate the tractor and truck to the residential uses. The tractor and truck are never used at night nor on Sundays. They are used frequently but not necessarily every day. The use tends to be heavier during the growing seasons. Sometimes, in the winter, neither the tractor nor the truck are used. In no event does the use of the tractor and trailer exceed two round trips per day and is almost always less than two trips.

Attached to this memorandum and incorporated herein by reference, are two affidavits from neighbors. These neighbors agree that the use of the tractor and truck does not disturb them and is compatible with the neighborhood. They have no objection to the continued use of the tractor and trailer.

Legal Argument

Petitioners first contend that the use of the tractor and truck is permitted in the zoning code. The definition of a commercial vehicle specifically exempts "... any farm vehicle or farm equipment actually and regularly used on a farm, satellite farm, or farmette". This exemption is not limited by gross vehicle weight. Therefore the use of the tractor and truck by the Massey is authorized and not precluded by Section 431.

However, notwithstanding Petitioners strong belief in the legality of their position, they felt compelled to file these petitions in order to settle a difference in interpretation of the code as to the application of Section 431.

Variance

To the extent that Section 431 applies, Petitioners are seeking a variance. A variance is appropriate because Section 431 pertains to off street parking. This is most appropriately characterized as an area variance since it pertains to the regulation of off street parking and does not affect the use of the property itself. See, Association for Preservation of 1700 Block of N Street, N.W., and Vicinity v. District of Columbia Board of Zoning Adjustment, 384 A.2d 674 (D.C.App. 1978).

The comments submitted by the Office of Planning and Zoning to the effect that a variance is inappropriate are without support legally or factually. Petitioners are not seeking to alter the use of the property itself but rather are requesting a variance from the off-street parking regulations to allow them to park the tractor and truck at the house at night and on weekends. No commercial activity is occurring at the residence itself.

The Masseys are entitled to a variance because of practical difficulties. They cannot park the tractor and truck at the farm because it borders Interstate 95 and there is a significant risk of vandalism. There are no buildings on the farm and no way to protect the tractor and trailer from potential harm at night. The only practical and realistic alternative is to park the tractor and truck at 8934 Cowenton Avenue.

Special Hearing
The Masseys are entitled to continue to park the truck and tractor at 8934 Cowenton Avenue as a non-conforming use which existed prior to the passage of Section 431. Section 431 was passed by Bill 70 in 1988. Without question the Masseys have been parking the truck and tractor on the property since 1980.

Prior to 1988 there was no provision in the zoning code prohibiting the parking of commercial vehicles. Agricultural activities were allowed in residential zones and continue to be allowed. Undersigned counsel was told that there were sporadic attempts to prohibit the parking of commercial vehicles in residential zones prior to 1988 based solely on the general exclusion of commercial activity in residential zones. However, these attempts to prohibit the parking were mostly unsuccessful. The parking of commercial vehicles was recognized de facto and de jure as a permitted use. In order to preclude the parking of commercial vehicles in residential zones, Section 431 was passed.

In the absence of Section 431, the zoning code did not prohibit the parking of commercial vehicles. The parking of commercial vehicles does not alter the residential use of the property itself. Further, the vehicles are mobile so that the commercial use of a vehicle could not be precluded by the general zoning provisions pertaining to land use. Accordingly, prior to 1988 it was legal for the Masseys to park the truck and tractor at 8934 Cowenton Avenue. This is particularly true considering that the truck and tractor are used for agricultural purposes. They are entitled to continue to park the truck and tractor at Cowenton Avenue as a non-conforming use.

Further, the tractor and trailer are being used for agricultural purposes which are permitted within residential districts.

The zoning enforcement office does not keep records classified by the type of violation. The office and court filings are made by the name of the defendant. Except for the personal recollections of the participants there is no other way to reference the violations.

CONCLUSION
For the reasons stated above, the Massey should be permitted to park their tractor and truck at 8934 Cowenton Avenue.

RESPECTFULLY SUBMITTED,

151
Patricia E. McDonald
12 Timothy's Green Ct.
Baltimore, MD 21208
(301) 653-3061

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353
May 8, 1991

Patricia E. McDonald, Esquire
12 Timothy's Green Court
Baltimore, Maryland 21208
RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE
SM/S Cowenton Avenue, 190' N of Lolly Road
(8934 Cowenton Avenue)
11th Election District - 5th Councilmanic District
John T. Massey, et ux - Petitioners
Case No. 91-301-SPHA

Dear Ms. McDonald:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Zoning Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

ANN M. NASTARONICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: John B. Gontrum, Esquire
Mary Helen Buchanan, Esquire
809 Eastern Boulevard, Baltimore, Md. 21221

Mr. & Mrs. William J. Rock
8938 Cowenton Avenue, Perry Hall, Md. 21128

People's Counsel

File

Mr. John S. Walker
9010 Cowenton Avenue, Perry Hall, Md. 21128

PETITION FOR ZONING VARIANCE 213
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 431A and 431B to allow two commercial/agricultural vehicles, one of which weighs approximately 13,000 pounds in lieu of the maximum permitted one vehicle weighing 10,000 pounds and a variance from section 431.3a to park a tractor (one of the vehicles) if the tractor is considered a piece of equipment instead of a vehicle. The tractor is used for residential purposes and only occasionally is used for commercial/agricultural purposes. The zoning regulation proposed is of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

To be established at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	John Thomas Massey
Signature	John Thomas Massey
Address	Katherine Anita Massey
City and State	(Type or Print Name)
Signature	Katherine Anita Massey
Address	8934 Cowenton Ave.
City and State	256-6048
Phone No.	
Attorney for Petitioner:	Patricia E. McDonald
(Type or Print Name)	Perry Hall, MD 21128
Address	City and State
Signature	Patricia E. McDonald
City and State	12 Timothy's Green Ct. 21208
Name, address and phone number of legal owner, contract purchaser or representative to be contacted	Patricia E. McDonald, Esq.
Baltimore, MD	Name
City and State	Address
Address	Phone No.
Attorney's Telephone No. (301)-653-3060	see above
Address	653-3060
Phone No.	

ORDERED By the Zoning Commissioner of Baltimore County, this 15 day of April, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 9 day of April, 1991, at 9:30 o'clock P.M.

J. Robert Hines
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date By

PETITION FOR SPECIAL HEARING 213
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-301-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

The parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes at 8934 Cowenton Ave. as a non-conforming use.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc. upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	John Thomas Massey
Signature	John Thomas Massey
Address	Katherine Anita Massey
City and State	(Type or Print Name)
Signature	Katherine Anita Massey
Address	8934 Cowenton Ave.
City and State	256-6048
Phone No.	
Attorney for Petitioner:	Patricia E. McDonald
(Type or Print Name)	Perry Hall, MD 21128
Address	City and State
Signature	Patricia E. McDonald
City and State	12 Timothy's Green Court
Name, address and phone number of legal owner, contract purchaser or representative to be contacted	Patricia E. McDonald, Esq.
Baltimore, MD	Name
City and State	Address
Address	Phone No.
Attorney's Telephone No. (301)-653-3060	see above
Address	653-3060
Phone No.	

ORDERED By the Zoning Commissioner of Baltimore County, this 15 day of April, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 9 day of April, 1991, at 9:30 o'clock P.M.

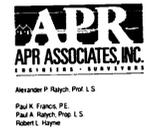
J. Robert Hines
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date By

ZONING DESCRIPTION

BEGINNING FOR THE SAME at a point on the centerline of Cowenton Avenue Avenue which is 30 feet wide at the distance of 190.04' North of the centerline of Lolly Lane which is 40 feet wide; thence running the following courses and distances: (1) South 67 degrees 29 minutes West 300.00 feet, (2) North 20 degrees 05 minutes West 150.00 feet, (3) North 67 degrees 29 minutes East 300.00 feet and (4) along the centerline of Cowenton Avenue South 20 degrees 05 minutes East 150.00 feet to the point of beginning as recorded in Deed Liber 3655, page 453. Also known as 8934 Cowenton Ave. 11th Elec. Dist. 1033 Ar.

91-301-SPHA



3216 Harford Road
Baltimore, Maryland 21234
(301) 444-4326
Fax: (301) 444-1647

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th Date of Posting: 3/22/91
Posted for: Special Hearing to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a variance from Section 431A and 431B to allow two commercial/agricultural vehicles, one of which weighs approximately 13,000 pounds in lieu of the maximum permitted one vehicle weighing 10,000 pounds and a variance from section 431.3a to park a tractor (one of the vehicles) if the tractor is considered a piece of equipment instead of a vehicle. The tractor is used for residential purposes and only occasionally is used for commercial/agricultural purposes. The zoning regulation proposed is of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

CERTIFICATE OF PUBLICATION

TOWSON, MD., 3-8-1991
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3-7-1991
THE JEFFERSONIAN,
S. Zeke Orlov
Publisher
\$ 88.44

NOTICE TO READERS
The Zoning Commissioner of Baltimore County, by authority of the Zoning Law and Regulations of Baltimore County, has held a public hearing on the property described in the description and plat attached hereto and made a part hereof, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a variance from Section 431A and 431B to allow two commercial/agricultural vehicles, one of which weighs approximately 13,000 pounds in lieu of the maximum permitted one vehicle weighing 10,000 pounds and a variance from section 431.3a to park a tractor (one of the vehicles) if the tractor is considered a piece of equipment instead of a vehicle. The tractor is used for residential purposes and only occasionally is used for commercial/agricultural purposes. The zoning regulation proposed is of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 2 successive weeks, the first publication appearing on 3-7-1991
NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER
S. Zeke Orlov
Publisher
\$ 58.44

NOTICE TO READERS
The Zoning Commissioner of Baltimore County, by authority of the Zoning Law and Regulations of Baltimore County, has held a public hearing on the property described in the description and plat attached hereto and made a part hereof, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a variance from Section 431A and 431B to allow two commercial/agricultural vehicles, one of which weighs approximately 13,000 pounds in lieu of the maximum permitted one vehicle weighing 10,000 pounds and a variance from section 431.3a to park a tractor (one of the vehicles) if the tractor is considered a piece of equipment instead of a vehicle. The tractor is used for residential purposes and only occasionally is used for commercial/agricultural purposes. The zoning regulation proposed is of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Baltimore County Zoning Commissioner
 Account # 001 6150
 Number
 receipt
 Please Make Checks Payable To Baltimore County

Baltimore County Zoning Commissioner
 Account # 001 6150
 Number
 receipt
 91-301
 Please Make Checks Payable To Baltimore County
 Cashier Validation

Baltimore County Government Zoning Commissioner Office of Planning and Zoning
 111 West Chesapeake Avenue Towson, MD 21204 887-3553
 DATE: 3-12-91
 John Thomas and Katherine Anita Massey
 8934 Cowenton Avenue
 Ferry Hall, Maryland 21128
 RE:
 Case Number: 91-301-SPHA
 SW/S Cowenton Avenue, approximately 190' N of Lolly Road
 8934 Cowenton Avenue
 11th Election District - 5th Councilmanic
 Petitioner(s): John Thomas and Katherine Anita Massey
 HEARING: TUESDAY, APRIL 9, 1991 at 9:30 a.m.
 Dear Petitioner(s):
 Please be advised that \$138.44 is due for advertising and posting of the above captioned property.
 THIS FEE MUST BE PAID AND THE SIGNING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE OFFICE SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.
 Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.
 J. Robert Haines
 ZONING COMMISSIONER
 BALTIMORE COUNTY, MARYLAND
 cc: Patricia E. McDonald, Esq.

Baltimore County Government Zoning Commissioner Office of Planning and Zoning
 111 West Chesapeake Avenue Towson, MD 21204 887-3553
 February 11, 1991
 NOTICE OF HEARING
 The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
 Case Number: 91-301-SPHA
 SW/S Cowenton Avenue, approximately 190' N of Lolly Road
 8934 Cowenton Avenue
 11th Election District - 5th Councilmanic
 Petitioner(s): John Thomas and Katherine Anita Massey
 HEARING: TUESDAY, APRIL 9, 1991 at 9:30 a.m.
 Special Hearing to approve the parking of a truck used for commercial/agricultural purposes and the parking of a tractor used for residential and commercial/agricultural purposes as a non-conforming use.
 Variance to allow two commercial/agricultural vehicles, one of which weighs approximately 13,000 pounds, in lieu of the maximum permitted one vehicle weighing 10,000 pounds; and to park a tractor (one of the vehicles) if the tractor is considered a piece of equipment instead of a vehicle.
 J. Robert Haines
 Zoning Commissioner of Baltimore County
 cc: John Thomas and Katherine Anita Massey
 Patricia E. McDonald, Esq.
 William Rock

Baltimore County Government Zoning Commissioner Office of Planning and Zoning
 111 West Chesapeake Avenue Towson, MD 21204 887-3553
 March 29, 1991
 Patricia E. McDonald, Esquire
 12 Timothys Green Court
 Baltimore, MD 21208
 RE: Item No. 273, Case No. 91-301-SPHA
 Petitioner: John T. Massey, et al
 Petition for Zoning Variance and Special Hearing
 Dear Ms. McDonald:
 The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.
 Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.
 IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.
 Very truly yours,
 James E. Dyer
 Chairman
 Zoning Plans Advisory Committee
 JED:jw
 Enclosures
 cc: Mr. & Mrs. John T. Massey
 8934 Cowenton Avenue
 Ferry Hall, MD 21128

Baltimore County Government Zoning Commissioner Office of Planning and Zoning
 111 West Chesapeake Avenue Towson, MD 21204 887-3553
 Your petition has been received and accepted for filing this 15th day of January, 1991.
 J. Robert Haines
 ZONING COMMISSIONER
 Received By:
 Chairman,
 Zoning Plans Advisory Committee
 Petitioner: John T. Massey, et ux
 Petitioner's Attorney: Patricia E. McDonald

BALTIMORE COUNTY, MARYLAND
 INTER-OFFICE CORRESPONDENCE
 TO: J. Robert Haines DATE: March 7, 1991
 Zoning Commissioner
 FROM: Pat Keller, Deputy Director
 Office of Planning and Zoning
 SUBJECT: John Thomas Massey, Item No. 273
 In reference to the applicant's request for a Special Hearing and Variance, staff offers the following comments:
 - County Council Bill No. 70, 1988, prohibits residential storage of commercial vehicles exceeding 10,000 pounds.
 Section 307.1 states that the zoning commissioner has the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations. The petitioner's request is not in keeping with this section since relief is being requested for a particular accessory use.
 The Baltimore County Master Plan designates the subject property a "low density residential" or "adopted land use plan."
 Staff has consistently opposed commercial intrusion into residential communities. The fact that a complaint has been filed may be indicative of the incompatible nature of storing commercial vehicles in a residential area.
 If there should be any further questions of this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.
 PK/JL/cmm
 ITEM273/ZAC1
 received
 3/12/91

Baltimore County Government Department of Public Works Bureau of Traffic Engineering
 401 Bosley Avenue Suite 405 Towson, MD 21204 887-3554 Fax 887-5784
 February 14, 1991
 Mr. J. Robert Haines
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204
 Dear Mr. Haines:
 The Bureau of Traffic Engineering has no comments for items number 245, 260, 262, 265, 267, 269, 271 and 273.
 Very truly yours,
 Michael S. Flanigan
 Michael S. Flanigan
 Traffic Engineer Associate II
 MSF/lvd
 received
 3/17/91

Baltimore County Government Fire Department
 700 East Joppa Road, Suite 901 Towson, MD 21204-5500 (410) 887-4500
 JANUARY 11, 1991
 J. Robert Haines
 Zoning Commissioner
 Office of Planning and Zoning
 Baltimore County Office Building
 Towson, MD 21204
 RE: Property Owner: JOHN THOMAS MASSEY
 Location: 8934 COWENTON AVENUE
 Item No.: 273 Zoning Agenda: JANUARY 14, 1991
 Gentlemen:
 Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.
 7. The Fire Prevention Bureau has no comments at this time.
 Noted and Approved
 REVIEWER: [Signature] 1-11-91 Approved: [Signature]
 Planning Group Fire Prevention Bureau
 Special Inspection Division
 JK/REK
 received
 1/14/91



111 West Chesapeake Avenue
Towson, MD 21204

867-3353

June 4, 1991

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing and Zoning Variance
SW/S Cowenton Avenue, 190' N of Lolly Road
(8934 Cowenton Avenue)
11th Election District, 5th Councilmanic District
JOHN T. MASSEY, ET UX - Petitioner
Case No. 91-391-SPHA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on May 30, 1991 by Patricia E. McDonald, Attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. John T. Massey
8934 Cowenton Avenue, Perry Hall, MD 21128
Patricia E. McDonald, Esquire
12 Timothy's Green Court, Baltimore, MD 21208
William and Eva Rock, 8938 Cowenton Avenue, Baltimore, MD 21228

Appeal Cover Letter - Case No. 91-391-SPHA
JOHN T. MASSEY, ET UX - Petitioner
June 4, 1991
Page 2

John B. Gontrum, Esquire
Mary Helen Buchanan, Esquire
809 Eastern Boulevard, Baltimore, MD 21221

John S. Walker, 9010 Cowenton Avenue, Perry Hall, MD 21128

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

In Re: *
*
VARIANCE AND * H 91-301-SPHA
*
SPECIAL HEARING *
*
PETITIONS FILED *
*
BY MASSEY *
*
(8934 Cowenton Avenue)
11th Election District *
5th Councilmanic District *

NOTICE OF APPEAL

Petitioners J. Thomas Massey and K. Anita Massey, by their attorney, Patricia E. McDonald, file this notice of appeal of the decision rendered by the Deputy Zoning Commissioner of Baltimore County dated May 8, 1991, in the above captioned case.

RESPECTFULLY SUBMITTED,

Patricia E. McDonald
Patricia E. McDonald
12 Timothy's Green Ct.
Baltimore, MD 21208
(301) 653-3061

CERTIFICATE OF MAILING

I hereby certify that a copy of the Notice of Appeal was mailed, postage prepaid, first class, to John B. Gontrum, Esquire and Mary Helen Buchanan, Esquire, 809 Eastern Blvd., Baltimore, MD 21221.

John B. Gontrum
John B. Gontrum, Esquire
12 Timothy's Green Ct.
Baltimore, MD 21208
(301) 653-3061

5-30-91
ZONING OFFICE
cu

APPEAL

Petition for Special Hearing and Zoning Variance
SW/S Cowenton Avenue, 190' N of Lolly Road
(8934 Cowenton Avenue)
11th Election District - 5th Councilmanic District
JOHN T. MASSEY, ET UX - Petitioner
Case No. 91-391-SPHA

Petition for Special Hearing and Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1. Plat to accompany petition

Protestant's Exhibits: 1. Photographs

Deputy Zoning Commissioner's Order dated May 8, 1991 (Denied)

Notice of Appeal received May 30, 1991 from Patricia E. McDonald, Attorney on behalf of the Petitioner

cc: Mr. & Mrs. John T. Massey
8934 Cowenton Avenue, Perry Hall, MD 21128

Patricia E. McDonald, Esquire
12 Timothy's Green Court, Baltimore, MD 21208

William and Eva Rock, 8938 Cowenton Avenue, Baltimore, MD 21228

John B. Gontrum, Esquire
Mary Helen Buchanan, Esquire
809 Eastern Boulevard, Baltimore, MD 21221

John S. Walker, 9010 Cowenton Avenue, Perry Hall, MD 21128

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
M. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Chief Deputy County Attorney
Public Services

7195-92
County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

July 30, 1992

Patricia E. McDonald, Esquire
12 Timothy's Green Court
Baltimore, MD 21208

RE: Case No. 91-301-SPHA
John T. Massey, et ux

Dear Ms. McDonald:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Mr. & Mrs. John T. Massey
Mr. & Mrs. William Rock
John B. Gontrum, Esquire
Mary Helen Buchanan, Esquire
Mr. John S. Walker
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of
Zoning Administration

RECEIVED
JUL 31 1992
ZONING OFFICE

ZONING ENFORCEMENT
Baltimore County
Zoning Office
Towson, Maryland 21204

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: James E. Dyer
Zoning Supervisor
January 4, 1991

FROM: James H. Thompson -LJW
Zoning Enforcement Coordinator

RE: Item No. 273
Petitioner: MR. & MRS. MASSEY

VIOLATION CASE # C-90-2811
LOCATION OF VIOLATION 8934 COWENTON AVENUE

DEFENDANT

ADDRESS

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME	ADDRESS
PATRICIA E. McDONALD ESQ.	12 TIMOTHY'S GREEN COURT BALTO MD 21208
WILLIAM ROCK	8938 COWENTON AVENUE BALTO MD 21228

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

ech/

AFFIDAVIT

I, Alfonso Patacca, solemnly affirm under the penalties of perjury and upon personal knowledge that the following information is true:

1. I am over the age of eighteen and competent to testify.
2. I am one of two next door neighbors to Mr. & Mrs. Massey and reside at 8932 Cowenton Avenue.
3. I have resided at this location for more than 10 years.
4. Since 1980, Mr. & Mrs. Massey have had a truck and a tractor at their house. The tractor and truck are usually parked at the house overnight and are used during the day.
5. At no time in more than ten years, has the use of the tractor or truck bothered or disturbed me. I do not believe that tractor or truck pose any danger or threat to the residential character of the neighborhood.
6. I have no objection to the continuation of the use of the tractor and trailer by Mr. & Mrs. Massey at their home on Cowenton Avenue.

Alfonso Patacca
Alfonso Patacca
8932 Cowenton Ave.
White Marsh, MD

AFFIDAVIT

I, Vincent Del Pizzo, solemnly affirm under the penalties of perjury and upon personal knowledge that the following information is true:

1. I am over the age of eighteen and competent to testify.
2. I live behind and kitty-corner to Mr. & Mrs. Massey. My property fronts Cowenton Avenue but goes back off the road for a distance. Mr. & Mrs. Massey's property is visible from my residence. I am one of only three neighbors who can see the Massey property.
3. I have resided at this location for more than 10 years.
4. Since 1980, Mr. & Mrs. Massey have had a truck and a tractor at their house. The tractor and truck are usually parked at the house overnight and are used during the day.
5. At no time in more than ten years, has the use of the tractor or truck bothered or disturbed me. I do not believe that tractor or truck pose any danger or threat to the residential character of the neighborhood.
6. I have no objection to the continuation of the use of the tractor and trailer by Mr. & Mrs. Massey at their home on Cowenton Avenue.

Vincent Del Pizzo
Vincent Del Pizzo
White Marsh, MD

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 431A and 431B to allow two commercial/agricultural vehicles, one of which weighs approximately 13,000 pounds in lieu of the maximum permitted one vehicle weighing 10,000 pounds and a variance from section 431.3a to park a tractor (one of the vehicles) if the tractor is considered a piece of equipment instead of a vehicle. The tractor is used for residential purposes and only occasionally is used for commercial/agricultural purposes. I/we are the legal owner(s) of the property of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

To be established at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Legal Owner(s):
 John Thomas Massey
 (Type or Print Name)
 John Thomas Massey
 Signature
 Address: 8934 Cowenton Ave. 256-6048
 City and State: Perry Hall, MD 21128
 Attorney for Petitioner:
 Patricia E. McDonald, Esquire
 (Type or Print Name) 8934 Cowenton Ave. 256-6048
 Address: Perry Hall, MD 21128
 City and State: Perry Hall, MD 21128
 Name, address and phone number of legal owner, contract purchaser or representative to be contacted
 Patricia E. McDonald, Esq.
 Name: 12 Timothy's Green Ct. 21208
 Address: Baltimore, MD
 City and State: Baltimore, MD
 Attorney's Telephone No.: (301)-653-3060
 Address: 538 above 653-3060
 Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 15 day of April 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 9 day of April 1991, at 9:30 o'clock P.M.

J. Robert Haines
 Zoning Commissioner of Baltimore County

APR ASSOCIATES, INC.
 Alexander P. Patch, Prof. L.S.
 Paul K. Frank, P.E.
 Paul A. Houch, Prof. L.S.
 Robert L. Houch

ZONING DESCRIPTION

BEGINNING FOR THE SAME at a point on the centerline of Cowenton Avenue which is 30 feet wide at the distance of 190.04' North of the centerline of Lolly Lane which is 40 feet wide; thence running the following courses and distances: (1) South 67 degrees 29 minutes West 300.00 feet, (2) North 20 degrees 05 minutes West 150.00 feet, (3) North 67 degrees 29 minutes East 300.00 feet and (4) along the centerline of Cowenton Avenue South 20 degrees 05 minutes East 150.00 feet to the point of beginning as recorded in Deed Liber 3655, page 453. Also known as 8934 Cowenton Ave. 11th Ele. Dist. 1.033 Ac.

91-301-3PH4

5216 Harford Road
 Baltimore, Maryland 21224
 (301) 444-4332
 Fax: (301) 444-1647

7427 Harford Road
 Baltimore, Maryland 21224
 (301) 444-4332
 Fax: (301) 444-1647

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 11d Date of Posting: 3/22/91
 Posted for: Special Hearing & Variance
 Petitioner: John Thomas & Kathleen Massey
 Location of property: 8934 Cowenton Ave., 190' N. Lolly Rd.
 Location of Sign: 8934 Cowenton Ave., 15' from E. end of driveway on property of P. H. Houch
 Number of Signs: 2

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 11d Date of Posting: 11/27/91
 Posted for: Re-posting - Appeal
 Petitioner: John T. Massey, et al
 Location of property: 8934 Cowenton Ave., Rd.
 Location of Sign: Re-d. call sign was showing, Md. sign sign & repair had as old sign was missing
 Number of Signs: 1

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 11d Date of Posting: 4/1/91
 Posted for: Appeal
 Petitioner: John T. Massey, et al
 Location of property: 8934 Cowenton Ave., 190' N. Lolly Rd.
 Location of Sign: 8934 Cowenton Ave., 15' from E. end of driveway on property of P. H. Houch
 Number of Signs: 1

CERTIFICATE OF PUBLICATION
 TOWSON, MD., 3 8, 19 91

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 5 successive weeks, the first publication appearing on 3-7, 19 91

THE JEFFERSONIAN,
 S. Zate Orlov
 Publisher

\$ 88.44

CERTIFICATE OF PUBLICATION
 3 8, 19 91

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3-7, 19 91

NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER
 S. Zate Orlov
 Publisher

\$ 88.44

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 887-3353

March 29, 1991

Patricia E. McDonald, Esquire
 12 Timothy's Green Court
 Baltimore, MD 21208

RE: Item No. 273, Case No. 91-301-3PH4
 Petitioner: John T. Massey, et al
 Petition for Zoning Variance and Special Hearing

Dear Ms. McDonald:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINTARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
 JAMES E. DYER
 Chairman
 Zoning Plans Advisory Committee

JED:jw
 Enclosures
 cc: Mr. & Mrs. John T. Massey
 8934 Cowenton Avenue
 Perry Hall, MD 21128

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 887-3353

Your petition has been received and accepted for filing this 15th day of January, 1991.

J. Robert Haines
 ROBERT HAINES
 ZONING COMMISSIONER

Received By:
James E. Dyer
 Chairman,
 Zoning Plans Advisory Committee

Petitioner: John T. Massey, et al
 Petitioner's Attorney: Patricia E. McDonald

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: March 7, 1991
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: John Thomas Massey, Item No. 273

In reference to the applicant's request for a Special Hearing and Variance, staff offers the following comments:

- County Council Bill No. 70, 1988, prohibits residential storage of commercial vehicles exceeding 10,000 pounds.
- Section 307.1 states that the zoning commissioner has the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations. The petitioner's request is not in keeping with this section since relief is being requested for a particular accessory use.

The Baltimore County Master Plan designates the subject property a "low density residential" on the adopted land use plan.

Staff has consistently opposed commercial intrusion into residential communities. The fact that a complaint has been filed may be indicative of the incompatible nature of storing commercial vehicles in a residential area.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm
ITEM273/ZAC1

received
3/12/91

Baltimore County Government
Department of Public Works
Bureau of Traffic Engineering

401 Bosley Avenue Suite 405
Towson, MD 21204

887-3554
Fax 887-5784

February 14, 1991

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 245, 246, 260, 262, 265, 267, 269, 271 and 273.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lvd

received
3/7/90

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21204-5500

(301) 887-4500

JANUARY 11, 1991

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: JOHN THOMAS MASSEY

Location: #8934 COWENTON AVENUE

Item No.: 273 Zoning Agenda: JANUARY 14, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER *Capt. Jeffrey Kelly 1-11-91* Noted and Approved *Capt. W.F. Brady jr*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/REK

received
1/14/91

ZONING ENFORCEMENT
Baltimore County
Zoning Office
Towson, Maryland 21284

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: James E. Dyer January 4, 1991
Zoning Supervisor

FROM: James H. Thompson -LJM
Zoning Enforcement Coordinator

RE: Item No. 273
Petitioner: MR. & MRS. MASSEY

VIOLATION CASE # C-90-2811

LOCATION OF VIOLATION 8934 COWENTON AVENUE

DEFENDANT

ADDRESS

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME	ADDRESS
PATRICIA E. McDONALD ESQ.	12 TIMOTHY'S GREEN COURT BALTO MD 21208
WILLIAM ROCK	8938 COWENTON AVENUE BALTO MD 21228

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

ech/

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

June 4, 1991

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing and Zoning Variance
SW/S Cowenton Avenue, 190' N of Lolly Road
(8934 Cowenton Avenue)
11th Election District, 5th Councilmanic District
JOHN T. MASSEY, ET UX - Petitioner
Case No. 91-391-SPHA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on May 30, 1991 by Patricia E. McDonald, Attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. John T. Massey
8934 Cowenton Avenue, Perry Hall, MD 21128

Patricia E. McDonald, Esquire
12 Timothy's Green Court, Baltimore, MD 21208

William and Eva Rock, 8938 Cowenton Avenue, Baltimore, MD 21228

Appeal Cover Letter - Case No. 91-391-SPHA
JOHN T. MASSEY, ET UX - Petitioner
June 4, 1991
Page 2

John B. Gontrum, Esquire
Mary Helen Buchanan, Esquire
809 Eastern Boulevard, Baltimore, MD 21221

John S. Walker, 9010 Cowenton Avenue, Perry Hall, MD 21128

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

In Re: *
* VARIANCE AND * H 91-301-SPHA
* SPECIAL HEARING *
* PETITIONS FILED *
* BY MASSEY *
* (8934 Cowenton Avenue) *
* 11th Election District *
* 5th Councilmanic District *
* * * * *

NOTICE OF APPEAL

Petitioners J. Thomas Massey and K. Anita Massey, by their attorney, Patricia E. McDonald, file this notice of appeal of the decision rendered by the Deputy Zoning Commissioner of Baltimore County dated May 8, 1991, in the above captioned case.

RESPECTFULLY SUBMITTED,

Pat E. McDonald
Patricia E. McDonald
12 Timothy's Green Ct.
Baltimore, MD 21208
(301) 653-3061

CERTIFICATE OF MAILING

I hereby certify that a copy of the Notice of Appeal was mailed, postage prepaid, first class, to John B. Gontrum, Esquire and Mary Helen Buchanan, Esquire, 809 Eastern Blvd., Baltimore, MD 21221.

Pat E. McDonald
Patricia E. McDonald
12 Timothy's Green Ct.
Baltimore, MD 21208
(301) 653-3061

PAID
5-70-9
ZONING OFFICE

9/5/91 - Following parties notified of hearing set for January 2, 1992 at 10:00 a.m.:

Patricia A. McDonald, Esquire
Mr. and Mrs. John T. Massey
Mr. and Mrs. William Rock
John B. Gontrum, Esquire
Mary Helen Buchanan, Esquire
Mr. John S. Walker
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Public Services
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon-Director of
Zoning Administration

11/20/91 - Request for Postponement filed by Patricia E. McDonald, Esq. on behalf of Petitioners; hold for response from John Gontrum, Esq.

11/29/91 - Above parties notified of POSTPONEMENT and REASSIGNMENT to May 6, 1992 at request of Counsel for Petitioner/Appellant.

12/06/91 - T/C from Patricia McDonald, Esq. --requested reassignment to earlier date -- will put request and reasons in writing to Board.

12/06 - Received letter from John Gontrum --legislative privilege not valid reason since legislature does not convene until January 8 and hearing was originally set for January 2. Requests reassignment of case to original date.

12/09 -Letter from Patricia McDonald, Esq. requesting reassignment to 2/92 date.

12/11/91 - Above parties notified of new hearing date February 5, 1992 at 10:00 a.m. at the request of parties.

2/6/92 - This matter was before the Board on February 5, 1992. Only the Petitioner showed. No one appeared in opposition. The only evidence presented was in Petitioner's case. At close of case, the Board, Michael B. Sauer as Acting Chairman, gave an oral decision giving findings of fact and conclusions of law and granted the nonconforming use finding and the variance requested. Counsel for Petitioner was instructed to prepare an Order of Court citing for the reasons given by the Board orally that the requested relief was granted. When Order of Court comes in, it should be reviewed as to form and the case is concluded.

In Re: *
*
* VARIANCE AND * H 91-301-SPHA
*
* SPECIAL HEARING *
* PETITIONS FILED *
* BY MASSEY *

(8934 Cowenton Avenue)
11th Election District
5th Councilmanic District

REQUEST FOR POSTPONEMENT

Petitioners J. Thomas Massey and K. Anita Massey, by their attorney, Patricia E. McDonald, file pursuant to Rule 2(b), this request for postponement in the above captioned case. The grounds of this motion are as follows:

1. The case is currently assigned for Thursday, January 2, 1992 at 10:00 a.m..
2. Mr. Alfred Redmer, Jr., past president of the Perry Hall Homeowners Association and currently serving in the House of Delegates desires to participate in this hearing as a witness and/or an interested party and observer.
3. Mr. Redmer has a previously scheduled commitment that conflict with the hearing date of January 2, 1992. Without his presence Mr. & Mrs. Massey cannot fully and fairly present their case.
4. The sign advertising the pending appeal and hearing disappeared, without Petitioners knowledge or presence on or about October 1, 1991. When the sign was originally made, the holes by which it is attached to the post were larger than necessary. On numerous occasions Petitioner Tom Massey tightened the bolts that were threaded through the holes because they were loose and the holes were too big. Mr. Massey was trying to ensure that the sign would stay attached. Despite his best efforts, the sign apparently blew off during a weekend when petitioners were out of town.

WHEREFORE, Petitioners request that the hearing scheduled for January 2, 1992 be postponed.

91 JAN 02 11:11:35

RESPECTFULLY SUBMITTED,

Patricia E. McDonald
Patricia E. McDonald
12 Timothys Green Ct.
Baltimore, MD 21208
(301) 653-3061

CERTIFICATE OF MAILING

I hereby certify that a copy of the Request for Postponement was mailed, postage prepaid, first class, on November 19, 1991, to John B. Gontrum, Esquire and Mary Helen Buchanan, Esquire, 809 Eastern Blvd., Baltimore, MD 21221 and to Peter Max Zimmerman and Phyllis Friedman, People's Counsel, Suite 204, 606 Baltimore Street, Towson, MD 21204.

Patricia E. McDonald
Patricia E. McDonald
12 Timothys Green Ct.
Baltimore, MD 21208
(301) 653-3061

In Re: *
*
* VARIANCE AND * H 91-301-SPHA
*
* SPECIAL HEARING *
* PETITIONS FILED *
* BY MASSEY *

(8934 Cowenton Avenue)
11th Election District
5th Councilmanic District

ORDER

This matter having been heard before the County Board of Appeals, evidence being taken, there being no opposition and for the reasons stated at the hearing, it is ORDERED this day of February, 1992, that:

Petitioners John Thomas Massey and Katherine Anita Massey are granted a variance from Section 431, to allow them to park a truck, weighing in excess of 10,000 pounds, and a tractor at the residence located at 8934 Cowenton Avenue, Perry Hall, Maryland.

Michael B. Sauer, Esquire
Panel Chairman

RE: PETITION FOR SPECIAL HEARING : BEFORE THE COUNTY BOARD OF APPEALS
PETITION FOR VARIANCE : OF BALTIMORE COUNTY
SW/S Cowenton Ave., 190' N of :
Lolly Rd. (8934 Cowenton Ave.) :
11th Election District :
5th Councilmanic District :
JOHN T. MASSEY, et ux, : Zoning Case No. 91-301-SPHA
Petitioners :
: : : : :
ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 29th day of August, 1991, a copy of the foregoing Entry of Appearance was mailed to Patricia E. McDonald, Esquire, 12 Timothys Green Ct., Baltimore, MD 21208, Attorney for Petitioners; John B. Gontrum, Esquire, and Mary Helen Buchanan, Esquire, 809 Eastern Blvd., Baltimore, MD 21221, Attorneys for Protestants; and John S. Walker, 9010 Cowenton Ave., Perry Hall, MD 21128.

Peter Max Zimmerman
Peter Max Zimmerman

91 AUG 29 11:08:29

RE: PETITION FOR SPECIAL HEARING : BEFORE THE COUNTY BOARD OF APPEALS
PETITION FOR VARIANCE : OF BALTIMORE COUNTY
SW/S Cowenton Ave., 190' N of :
Lolly Rd. (8934 Cowenton Ave.) :
11th Election District :
5th Councilmanic District :
JOHN T. MASSEY, ET UX, : Zoning Case No. 91-301-SPHA
Petitioners :
: : : : :
WITHDRAWAL OF APPEARANCE

Please withdraw the appearance of People's Counsel for Baltimore County in the above-captioned matter. It is no longer in the public interest for this office to maintain its appearance in this case.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 30th day of January, 1992, a copy of the foregoing Withdrawal of Appearance was mailed to Patricia E. McDonald, Esquire, 12 Timothys Green Ct., Baltimore, MD 21208, Attorney for Petitioners.

Phyllis Cole Friedman
Phyllis Cole Friedman

91 JAN 02 08:11:26

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Office of the Zoning Director DATE: September 1, 1992
LindaLee M. Kuszmaul
FROM: County Board of Appeals
Closed File
SUBJECT: Case No. 91-301-SPHA (John T. Massey, et ux)

As no further appeals have been taken regarding the subject case, we have closed the file and are returning same to you herewith.

Linda

Attachment

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180
Hearing Room -
Room 301, County Office Bldg. September 5, 1991

NOTICE OF ASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 91-301-SPHA JOHN T. MASSEY, ET UX
SW/S Cowenton Ave., 190' N of Lolly Road (8934 Cowenton Avenue)
11th Election District
5th Councilmanic District
SPH-Nonconforming use/parking of truck/tractor;
VAR-to permit 2 commercial vehicles to park on subject property in lieu of maximum 1; to permit parking of subject tractor as piece of equipment.
5/8/91 - D.E.C.'s Order DENYING Petitions.

ASSIGNED FOR: THURSDAY, JANUARY 2, 1992 at 10:00 a.m.

cc: Patricia A. McDonald, Esquire - Counsel for Petitioner
Mr. and Mrs. John T. Massey - Petitioner/Appellant
~~Mr. and Mrs. William Rock no correct address 9/10/91~~
John B. Gontrum, Esquire
Mary Helen Buchanan, Esquire
Mr. John S. Walker
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Public Services out of Paula 9/12/91
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon-Director of Zoning Administration
LindaLee M. Kuszmaul
Legal Secretary

12/10/91
Resubmitted to
2/10/92 @
10 am
PP'd to 5/16/92 @
10 am (req. of Counsel for Petitioners)

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180
Hearing Room -
Room 301, County Office Bldg. November 29, 1991

NOTICE OF POSTPONEMENT AND REASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 91-301-SPHA JOHN T. MASSEY, ET UX
SW/S Cowenton Ave., 190' N of Lolly Road (8934 Cowenton Avenue)
11th Election District
5th Councilmanic District
SPH-Nonconforming use/parking of truck/tractor;
VAR-to permit 2 commercial vehicles to park on subject property in lieu of maximum 1; to permit parking of subject tractor as piece of equipment.
5/8/91 - D.E.C.'s Order DENYING Petitions.

which was scheduled for hearing on January 2, 1992 has been POSTPONED at the request of Counsel for Petitioner/Appellant citing legislative privileges and has been

REASSIGNED FOR: WEDNESDAY, MAY 6, 1992 at 10:00 a.m.

cc: Patricia A. McDonald, Esquire - Counsel for Petitioner
Mr. and Mrs. John T. Massey - Petitioner/Appellant
Mr. and Mrs. William Rock
John B. Gontrum, Esquire
Mary Helen Buchanan, Esquire
Mr. John S. Walker
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon-Director of Zoning Administration
LindaLee M. Kuszmaul
Legal Secretary



County Board of Appeals of Baltimore County
 COUNTY OFFICE BUILDING, ROOM 315
 111 W. CHESAPEAKE AVENUE
 TOWSON, MARYLAND 21204
 (301) 857-3180

Hearing Room -
 Room 301, County Office Bldg. December 11, 1991

NOTICE OF REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c). COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 91-301-SPHA JOHN T. MASSEY, ET UX
 SW/s Cowenton Ave., 190' N of Lolly Road (8934 Cowenton Avenue)
 11th Election District
 5th Councilmanic District

SPH-Nonconforming use/parking of truck/tractor;
 VAR-to permit 2 commercial vehicles to park on subject property in lieu of maximum 1; to permit parking of subject tractor as piece of equipment.

5/8/91 - D.Z.C.'s Order DENYING Petitions.

which was scheduled for hearing on May 6, 1992 has been RESCHEDULED at the request of parties and has been

REASSIGNED FOR: **WEDNESDAY, FEBRUARY 5, 1992 at 10:00 a.m.**

cc: Patricia A. McDonald, Esquire - Counsel for Petitioner

Mr. and Mrs. John T. Massey - Petitioner/Appellant
 Mr. and Mrs. William Rock
 John B. Gontrum, Esquire
 Mary Helen Buchanan, Esquire
 Mr. John S. Walker
 People's Counsel for Baltimore County
 P. David Fields
 Pat Keller
 Lawrence E. Schmidt
 Timothy M. Kotroco
 James E. Dyer
 W. Carl Richards, Jr.
 Docket Clerk - Zoning
 Arnold Jablon-Director of
 Zoning Administration

Lindalee M. Kuszmaul
 Legal Secretary

not in St. by Hand 1/31/92



HOUSE OF DELEGATES
 ANNAPOLIS, MARYLAND 21401-1991

ALFRED W. REDMER, JR.
 8TH LEGISLATIVE DISTRICT
 BALTIMORE COUNTY
 ENVIRONMENTAL MATTERS COMMITTEE

January 23, 1992

William Hackett, Chairman
 Baltimore County Board of Appeals
 County Office Bldg.
 111 West Chesapeake Ave.
 Towson, MD 21204

Dear Mr. Hackett:

I would like to take this opportunity to express my feelings and extend a few personal thoughts regarding the Massey zoning violation at 8934 Cowenton Ave., Perry Hall, Md. 21128.

From 1980 to 1990, I was the president of the Perry Hall Improvement Association which the Massey property was a part of. As a life-long resident of that community, I have a pretty comprehensive idea of the state of that area.

The Massey property is located in an area which is still predominantly agricultural, with some residential areas. It is not unusual, nor has it been unusual, to have trade or employment equipment located at personal residences.

While I do not currently represent the Perry Hall Improvement Association, their position historically has been to look at these types of issues with understanding and patience.

I've known the Massey family for many years, and I hope this matter can be resolved to everyone's mutual satisfaction.

Thank you for your consideration. Please do not hesitate to contact me with any questions or comments concerning this matter.

Sincerely,

 Delegate Al Redmer, Jr.

AR/pd

6-11-92 10:00 AM '92

LAW FIRM
 Romadka, Gontrum & Hennegan, P.A.
 814 EASTERN BOULEVARD
 ESSEX, MARYLAND 21221
 TELEPHONE (301) 686-8274
 FAX # 686-0118

ROBERT J. ROMADKA
 JOHN B. GONTRUM
 JOHN O. HENNEGAN
 DONALD H. SHEFFY
 NANCY E. DWYER*
 SHARON R. GAMBLE
 MARY H. BUCHANAN
 *Also admitted in Florida

January 31, 1992

William T. Hackett, Chairman
 County Board of Appeals of Baltimore County
 Room 315
 County Office Building
 Towson, Maryland 21204

Dear Chairman Hackett:

My clients have informed me that they no longer wish to participate in the hearing currently scheduled before the Board for Wednesday, February 5, 1992. Accordingly, I will not be present at said hearing and do not intend to participate.

Very truly yours,

 John B. Gontrum

JBG/wpo
 cc: Patricia E. McDonald
 People's Counsel
 Mr. & Mrs. Rock

6-11-92 10:00 AM '92

Law Offices
 Patricia E. McDonald
 12 Timothy's Green Court
 Baltimore, Maryland 21208
 (301) 653-3061

February 6, 1992

HAND-DELIVERED

Michael B. Sauer, Esquire
 Panel Chairman
 County Board of Appeals
 Old Courthouse, Rm. 48
 400 Washington Ave.
 Towson, MD 21204

Re: Case No. 91-301 SPHA

Dear Mr. Sauer,

Enclosed please find the draft order prepared pursuant to Board's oral ruling made at the hearing held on February 5, 1992.

If I can be of further assistance, please let me know.

Very truly yours,

 Patricia E. McDonald

cc: Mr. & Mrs. Massey

6-11-92 10:00 AM '92

Law Offices
 Patricia E. McDonald
 12 Timothy's Green Court
 Baltimore, Maryland 21208
 (301) 653-3061

April 28, 1992

Michael B. Sauer, Esquire
 Panel Chairman
 County Board of Appeals
 Old Courthouse, Rm. 48
 400 Washington Ave.
 Towson, MD 21204

Re: Petition of Massey
 Case No. 91-301 SPHA

Dear Mr. Sauer,

As you will recall from a review of the file, the above-captioned case came for a hearing before you on February 5, 1992. At the conclusion of the hearing, the panel voted and granted the relief requested by the Masseys.

Pursuant to your instructions, I prepared an order. As yet, I have not received a copy of the signed order. If there is a problem, please let me know; otherwise, I would appreciate it if a copy of the signed order was sent to me.

Very truly yours,

 Patricia E. McDonald

cc: Mr. & Mrs. Massey

6-11-92 10:00 AM '92

Zoning Brd. of Appeals
 Room 48
 Old Courthouse
 400 Washington Avenue
 Towson, MD 21204

Re: Case 91-301-SPHA

Dear Sirs,

I would like to express my support for Mr. Massey's petition. The use of the truck and tractor are consistent with the neighborhood. The neighborhood has mixed residential, agricultural and commercial uses. There are farms on which heavy equipment is used as well as, a truck facility.

The continued parking and of the truck and tractor poses no threat to the safety of the neighborhood, nor does it threaten the character of the area.

Mr. Massey should be able to continue using the truck and tractor as he has for years.

Sincerely yours,

Lillian Tarte
 Lolly Lane

*Dear Sirs
 I am alone, over 80 yrs old, and would not be able to get out of my house in the winter, when it snows, if Mr. Massey did not bring his truck down to my house, and clear a path. My health is not good, and I need to get out. I thank you Mr. Massey, I do!
 The County won't do it!
 Mrs. L. Tarte*

92 JAN 22 11:11:32

Law Offices
 Patricia E. McDonald
 12 Timothy's Green Court
 Baltimore, Maryland 21208
 (301) 653-3061

December 6, 1991

County Board of Appeals
 County Office Bldg., Rm. 315
 111 W. Chesapeake Ave.
 Towson, MD 21204

Re: Case No. 91-301 SPHA

Dear Clerk,

Recently the above captioned case was postponed from Jan. 2, 1992 until May 6, 1992. One of the reasons cited for the postponement was the availability of Mr. Redmer. There was a misunderstanding between my clients and Mr. Redmer as to his availability. I apologize for the misunderstanding.

I understand that a hearing date is available in February 1992. I would appreciate it if you would let me know what dates are available so that I could discuss scheduling with opposing counsel.

Thanking you in advance for your cooperation, I remain,

Very truly yours,

 Patricia E. McDonald

cc: Mr. & Mrs. Massey
 John Gontrum, Esq.
 People's Counsel
 Alfred Redmer, Jr.

91 DEC -9 PM 2:52

Set 2/6/92 10:00

LAW FIRM
 Romadka, Gontrum & Hennegan, P.A.
 814 EASTERN BOULEVARD
 ESSEX, MARYLAND 21221
 TELEPHONE (301) 686-8274
 FAX # 686-0118

ROBERT J. ROMADKA
 JOHN B. GONTRUM
 JOHN O. HENNEGAN
 DONALD H. SHEFFY
 NANCY E. DWYER*
 SHARON R. GAMBLE
 MARY H. BUCHANAN
 *Also admitted in Florida

December 5, 1991

William T. Hackett, Chairman
 County Board of Appeals of Baltimore County
 Room 315, County Office Building
 Towson, Maryland 21204

RE: Case No. 91-301-SPHA

Dear Chairman Hackett:

I am in receipt of a notice from your office postponing the above-referenced case from its January 2nd hearing date purportedly due to legislative privilege. It is my understanding from conversations with your Executive Secretary that this is due to the fact that one of the witnesses to be called by the Petitioner is in the House of Delegates.

After checking with the legislative office, it is my understanding that the legislature does not go into session until Wednesday, January 8th, the first working Wednesday of the month of January. Legislative privilege, therefore, does not apply to January 2nd. We have had the January 2nd hearing date since early September. Postponement of the case at this time until May is a severe inconvenience to my clients. To have the case postponed for what is apparently an improper reason, is even more vexing. Your notice to me of the fact that the case had been postponed was the first notice that I had received that the issue of a continuance had been requested, let alone granted. Unless the issue of

*Pos 2/5
 see file note
 re Massey*

50-11111-1-32016

January 26, 1991

Re: Case 91-301-SPHA

to Attn: Any Concerns:

We have been residents on Cowenton Ave. since 1979 and had equipment for custom repair until husband's disability. At no time did any neighbor complain or was any neighbor disturbed. This area is still small farms and farm people. Mr. Massey does not inconvenience or bother anyone with his business equipment on his own property. He is paying property taxes, vehicle and gasoline tax, and helping our economy as a small business man.

Our 8 year old mother lives directly across the street from Mr. Massey, never any problems. The Masseys are always helpful to their neighbors, are a good Christian family, are supportive neighbors and should be given some consideration or waiver.

There are other business people on Cowenton Ave. who have vehicles in their yards.

We were advised that the original complainant has made no complaint to the Masseys for the problems they caused.

Respectfully,

Melvin L. Ray
Melvin L. Ray

1/26/91 12:26

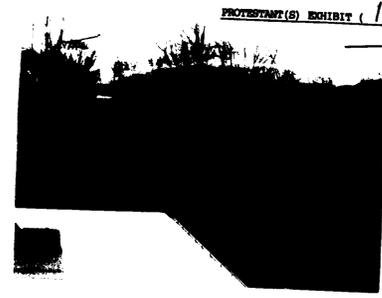
Veratley L. Ray
Veratley L. Ray



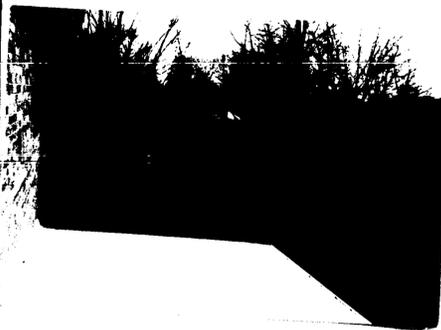
1A



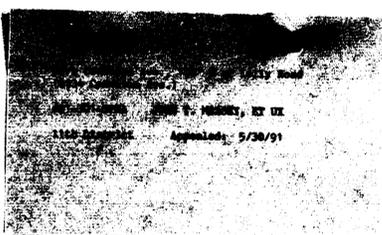
1B



1C



1D



#91-301-SPHA

JOHN T. MASSEY, ET UX
SW/S Cowenton Ave., 190 N of Lolly Rd
Lolly Rd. 1034 Cowenton Ave.
11th District

APPEAL

Petition for Special Hearing and Zoning Variance
SW/S Cowenton Avenue, 190 N of Lolly Road
(8934 Cowenton Avenue)
11th Election District - 5th Councilmanic District
JOHN T. MASSEY, ET UX - Petitioner
Case No. 91-301-SPHA

301

- ✓ Petition for Special Hearing and Zoning Variance
- ✓ Description of Property
- ✓ Certificate of Posting
- ✓ Certificate of Publication
- Entry of Appearance of People's Counsel (None submitted)
- ✓ Zoning Plans Advisory Committee Comments
- ✓ Director of Planning & Zoning Comments
- ✓ Petitioner's Exhibits: 1. Plat to accompany petition
- ✓ Protestant's Exhibits: 1. Photographs (4)
- ✓ Deputy Zoning Commissioner's Order dated May 8, 1991 (Denied)
- ✓ Notice of Appeal received May 30, 1991 from Patricia E. McDonald, Attorney on behalf of the Petitioner

- cc: Mr. & Mrs. John T. Massey
8934 Cowenton Avenue, Perry Hall, MD 21128
- * Patricia E. McDonald, Esquire
12 Timothy's Green Court, Baltimore, MD 21208
- William and Eva Rock, 8938 Cowenton Avenue, Baltimore, MD 21128
- John B. Contrum, Esquire
- Mary Helen Buchanan, Esquire
889 Eastern Boulevard, Baltimore, MD 21221
- John S. Walker, 9010 Cowenton Avenue, Perry Hall, MD 21128

GOOD ADDRESS

out per Sh... 1/30/91

- Request Notification: P. David Fields, Director of Planning & Zoning
- Patrick Keller, Office of Planning & Zoning
- J. Robert Haines, Zoning Commissioner
- Ann M. Mastarowicz, Deputy Zoning Commissioner
- James E. Dyer, Zoning Supervisor
- W. Carl Richards, Jr., Zoning Coordinator
- Docket Clerk
- Arnold Jablon, Chief Deputy County Attorney
- Public Services

out per Paula 9/12/91

VE